

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

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4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 SERGIO ESLI RIVERA,

8 Defendant.
9

Case No. 2:13-cr-0450-APG-GWF

ORDER

(ECF #125)

10 Miquel Hernandez filed a motion entitled "Motion for Direct Appeal," but he requests
11 relief under 28 U.S.C. § 2255, which generally governs post-appeal motions. ECF No. 125. As a
12 district court judge, I do not have jurisdiction to hear direct appeals; those have to be filed with
13 the United States Court of Appeal for the Ninth Circuit. And Hernandez's motion argues that his
14 counsel was ineffective, which is normally an argument made under § 2255 and not on direct
15 appeal. *United States v. McKenna*, 327 F.3d 830, 845 (9th Cir. 2003) ("Claims of ineffective
16 assistance of counsel are generally inappropriate on direct appeal."). I thus construe Hernandez's
17 motion as requesting post-conviction relief under § 2255. The government is ordered to file a
18 response on or before July 10, 2017.

19 DATED this 9th day of June, 2017.

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21 
22 ANDREW P. GORDON
23 UNITED STATES DISTRICT JUDGE
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